

# REGULAR MEETING OF THE OKLAHOMA WORKERS' COMPENSATION COMMISSION

## ~ APPEALS ~

Friday, March 17, 2023  
9:00 a.m.  
Commission En Banc Courtroom  
1915 N. Stiles Ave.  
Oklahoma City, Oklahoma  
[www.wcc.ok.gov](http://www.wcc.ok.gov)

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### MINUTES

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Members present: Chairman Jordan Russell, Commissioner Megan Tilly, and Commissioner Scott Biggs.

Staff present to support the Commission: Alexander Watkins, WCC; Lindsey Christopher, WCC; and Monica Pack, WCC.

#### **STATEMENT OF OKLAHOMA OPEN MEETING LAW COMPLIANCE**

Chairman Russell stated the administrative meeting was being held in compliance with the Open Meetings Act.

**CALL TO ORDER** ..... **Presiding Appellate Officer, Commissioner Tilly**

Call to order 9:00 a.m. by Commissioner Tilly, Presiding Appellate Officer.

**ROLL CALL** ..... **Presiding Appellate Officer, Commissioner Tilly**

After the roll call was taken, Commissioner Tilly announced the presence of a Quorum.

#### **A. MINUTES:**

- The drafted Minutes of the Regular Appeals Meeting of February 17, 2023, were considered for approval.

**Motion:** Commissioner Biggs made a motion to approve the Regular Appeals Meeting of February 17, 2023, minutes.

**Second:** Commissioner Tilly

**Those Voting Aye:** Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

**THE MOTION CARRIED: MINUTES APPROVED**

**B. Appeal Hearings before the Commission En Banc from Orders Issued by the Commission's Administrative Law Judges**

**1. Monica Moreno v. St. Anthony South Behavioral Health and SSM Healthcare Corp. (OWN RISK), File #CM3-2018-03309K**

Respondent filed an appeal from the order issued by Administrative Law Judge Egan. Laura Beth Murphy appeared for the Claimant and John S. Oldfield Jr. appeared for the Respondent.

*Motion:* After reviewing the record, hearing oral arguments, and deliberating, Commissioner Biggs moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

*Second:* Chairman Russell

*Those Voting Aye:* Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

**THE MOTION CARRIED: ALJ ORDER AFFIRMED**

**2. Bryan Lukinbill v. Prime Conduit Inc. and Sompo America Insurance Company, File #CM3-2021-07279Q**

Claimant filed an appeal from the order issued by Administrative Law Judge Curtin. Joe Farnan appeared for the Claimant and Dale Kimsey appeared for the Respondent.

*Motion:* After reviewing the record, hearing oral arguments, and deliberating, Commissioner Biggs moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

*Second:* Chairman Russell

*Those Voting Aye:* Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

**THE MOTION CARRIED: ALJ ORDER AFFIRMED**

**3. Teresa Resendiz v. MITE, File #CM3F-2017-04498Y**

Claimant filed an appeal from the order issued by Administrative Law Judge Inhofe. Pamla Cornett appeared for the Claimant and Travis R. Colt appeared for the Respondent.

*Motion:* After reviewing the record, hearing oral arguments, and deliberating, Commissioner Biggs moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

*Second:* Chairman Russell

*Those Voting Aye:* Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

**THE MOTION CARRIED: ALJ ORDER AFFIRMED**

**4. Michael Lewis v. H3S Investments, LLC and Stonetrust Commercial Ins. Co., #CM3-2022-00255Y**

Claimant filed an appeal from the order issued by Administrative Law Judge Egan. Darrel Paul appeared for the Claimant and Jennifer Finley appeared for the Respondent.

*Motion:* After reviewing the record, hearing oral arguments, and deliberating, Commissioner Biggs moved to take this case under advisement.

*Second:* Chairman Russell

*Those Voting Aye:* Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

**THE MOTION CARRIED: TAKEN UNDER ADVISEMENT**

**5. James Randy Westlake v. MITF, File #CM3F-2022-01067X**

Respondent filed an appeal from the order issued by Administrative Law Judge Lawyer. Ray Lahann is the attorney of record for the Claimant and Travis R. Colt is the attorney of record for the Respondent.

*Motion:* After reviewing the record, hearing oral arguments, and deliberating, Commissioner Biggs moved to take this case under advisement.

*Second:* Chairman Russell

*Those Voting Aye:* Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

**THE MOTION CARRIED: TAKEN UNDER ADVISEMENT**

**6. Harmony Hill v. Tulsa Public Schools, File #CM3-2016-01538H**

Respondent filed an appeal from the order issued by Administrative Law Judge Lawyer. Esther M. Sanders and David P. Reid are the attorneys of record for the Claimant. Catherine M. Bashaw is the attorney of record for the Respondent.

*Motion:* Commissioner Biggs moved to continue this case to the next available appeals docket.

*Second:* Chairman Russell

*Those Voting Aye:* Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

**THE MOTION CARRIED: CASE CONTINUED**

7. **Kamarrah Cunningham v. Walmart Stores Inc. and Walmart Associates Inc. (OWN RISK), File #CM3-2020-05014R**

Claimant filed an appeal from the order issued by Administrative Law Judge Egan. Pamla Cornett appeared for the Claimant and Steven E. Hanna appeared for the Respondent.

*Motion:* After reviewing the record, hearing oral arguments, and deliberating, Commissioner Biggs moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

*Second:* Chairman Russell

*Those Voting Aye:* Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

**THE MOTION CARRIED: ALJ ORDER AFFIRMED**

8. **Christopher Anders v. Steel Service Co. Inc. and Standard Fire Insurance, File #CM3-2021-04538F**

Respondent filed an appeal from the order issued by Administrative Law Judge McMillin. Bret Unterschuetz appeared for the Claimant and Matthew R. Defehr appeared for the Respondent.

*Motion:* After reviewing the record, hearing oral arguments, and deliberating, Commissioner Biggs moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

*Second:* Chairman Russell

*Those Voting Aye:* Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

**THE MOTION CARRIED: ALJ ORDER AFFIRMED**

9. **Denny Rollins v. GXO Logistics Inc. and Everest Premier Insurance Company, File #CM3-2021-07467J**

Claimant filed an appeal from the order issued by Administrative Law Judge Inhofe. Bret Unterschuetz is the attorney of record for the Claimant and John A. McCaleb is the attorney of record for the Respondent.

*Motion:* After reviewing the record, hearing oral arguments, and deliberating, Commissioner Biggs moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

*Second:* Chairman Russell

*Those Voting Aye:* Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

**THE MOTION CARRIED: ALJ ORDER AFFIRMED**

**C. Commission Consideration of Adoption of Final Orders in the Following Cases:**

**1. Wanda Gibby v. MITE, File #CM3F-2019-07638F**

Claimant filed an appeal from the order issued by Administrative Law Judge Blodgett. J. Kord Hammert appeared for the Claimant and Michael A. Fagan appeared for the Respondent.

This case came on for Oral Argument on May 20, 2022. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

*Motion:* Commissioner Biggs moved to adopt the order as proposed.

*Second:* Chairman Russell

*Those Voting Aye:* Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

**THE MOTION CARRIED: ORDER ADOPTED**

**2. Allan Hare v. MITE, File #CM3F-2019-04761J**

Claimant filed an appeal from the order issued by Administrative Law Judge Curtin. Ray Lahann is the attorney of record for the Claimant and Stefan Wenzel is the attorney of record for the Respondent.

This case came on for Oral Argument on November 18, 2022. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

*Motion:* Commissioner Biggs moved to continue this order to the next appeals meeting.

*Second:* Chairman Russell

*Those Voting Aye:* Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

**THE MOTION CARRIED: ORDER CONTINUED**

**3. James Crittenden Jr. v. MITE, File #CM3F-2019-07602A**

Claimant filed an appeal from the order issued by Administrative Law Judge Blodgett. McCaffrey & Associates are the attorneys of record for the Claimant and Michael A. Fagan is the attorney of record for the Respondent.

This case came on for Oral Argument on November 18, 2022. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

*Motion:* Commissioner Biggs moved to continue this order to the next appeals meeting.

*Second:* Chairman Russell

*Those Voting Aye:* Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

**THE MOTION CARRIED: ORDER CONTINUED**

**4. Norma Chavez v. Lopez Foods Inc. (OWN RISK), File #CM3A-2017-07276R**

Respondent filed an appeal from the order issued by Administrative Law Judge Egan. W. Wicker and James G. Devinney appeared for the Claimant. Norman Lemonik appeared for the Respondent.

This case came on for Oral Argument on August 26, 2022. After reviewing the record, hearing oral arguments, and deliberating, Commissioner Biggs moved to take preliminary action to affirm the decision of the Administrative Law Judge's Order and instructed the law clerk or other staff member to draft a proposed order with finding of facts and conclusions of law, to be considered for continued action at a future meeting.

*Motion:* Commissioner Biggs moved to continue this order to the next appeals meeting.

*Second:* Chairman Russell

*Those Voting Aye:* Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

**THE MOTION CARRIED: ORDER CONTINUED**

**5. Robert Page v. City of Tulsa (OWN RISK #10435), File #CM3-2020-06114Y**

Respondent filed an appeal from the order issued by Administrative Law Judge Inhofe. Micah Felton appeared for the Claimant and Cyrus Nathaniel Lawyer appeared record for the Respondent.

This case came on for Oral Argument on September 16, 2022. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

*Motion:* Commissioner Biggs moved to continue this order to the next appeals meeting.

*Second:* Chairman Russell

*Those Voting Aye:* Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

**THE MOTION CARRIED: ORDER CONTINUED**

**6. Nancy Gonzalez-Rubio v. Pacific Painting Co. Inc. and Continental National Indemnity Co., File #CM3A-2019-04881X**

Respondent filed an appeal from the order issued by Administrative Law Judge Egan. Milly Daniels appeared for the Claimant and Nicole S. Bryant appeared for the Respondent.

This case came on for Oral Argument on September 16, 2022. After reviewing the record, hearing oral arguments, and deliberating, Commissioner Tilly moved to take preliminary action to vacate and remand the decision of the Administrative Law Judge's Order and instructed the law clerk or other staff member to draft a proposed order with finding of facts and conclusions of law, to be considered for continued action at a future meeting.

*Motion:* Commissioner Biggs moved to continue this order to the next appeals meeting.

*Second:* Chairman Russell

*Those Voting Aye:* Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

**THE MOTION CARRIED: ORDER CONTINUED**

**7. Allen Schuster v. Grady Memorial Hospital (OWN RISK), File #CM3-2021-00425R**

Respondent filed an appeal from the order issued by Administrative Law Judge Blodgett. Claimant represented himself, pro se, and Donald A. Bullard appeared for the Respondent.

This case came on for Oral Argument on January 27, 2023. After reviewing the record, hearing oral argument of counsel, and deliberating, Commission Tilly moved to take preliminary action to affirm the order in-part and overrule the order in-part, specifically, to affirm the findings of a compensable injury to the thoracic back; affirm the award of TTD; overrule the finding of compensable injury to the neck; and remand the matter to the ALJ on the appointment of an IME for psych overlay.

*Motion:* Commissioner Biggs moved to continue this order to the next appeals meeting.

*Second:* Chairman Russell

*Those Voting Aye:* Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

**THE MOTION CARRIED: ORDER CONTINUED**

**8. Jimmie Wilson v. MITF, File #CM3F-2017-01505K**

Respondent filed an appeal from the order issued by Administrative Law Judge McMillin. Micah Felton appeared for the Claimant and Stefan Wenzel appeared for the Respondent.

This case came on for Oral Argument on January 27, 2023. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission Tilly moved to take preliminary action to affirm the administrative law judge's order and find that it's neither contrary to law nor against the clear weight of the evidence.

*Motion:* Commissioner Biggs moved to continue this order to the next appeals meeting.

*Second:* Chairman Russell

*Those Voting Aye:* Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

**THE MOTION CARRIED: ORDER CONTINUED**

**ADJOURNMENT**

*Motion:* Commissioner Biggs moved to adjourn the meeting at approximately 2:30 p.m.

*Second:* Chairman Russell.

*Those Voting Aye:* Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

**THE MOTION CARRIED: MEETING ADJOURNED.**